

## **BILL ANALYSIS**

C.S.H.B. 1685  
By: Price  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Self-Directed Semi-Independent Agency Act (Act) allows the Texas State Board of Public Accountancy, Texas Board of Professional Engineers and Texas Board of Architectural Examiners to collect revenues and set their own budgets outside of the appropriations process. Boards subject to the Act are responsible for all direct and indirect costs and must remit a fixed sum annually to the General Revenue Fund. Each agency must maintain information regarding its financial condition and operation. The agencies must also biennially report statistical information reflecting their licensing and enforcement efforts to the Governor, House Appropriations and Senate Finance committees, and the Legislative Budget Board.

The SDSI Act is subject to the Sunset Act and will expire on September 1, 2013, unless continued by the Legislature. The Sunset Commission recommended continuation of the Act, with future Sunset review happening as part of the review of the agencies, and several statutory modifications that are contained in this legislation. By continuing the SDSI Act, the Sunset Commission made it possible for the Act to be recodified in general law in the Government Code.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

#### ***Transfers the un-codified Act into the Government Code and makes technical changes.***

C.S.H.B. 1685 transfers, re-designates, and amends Article 8930, Revised Statutes, to Subtitle E, Title 4, Government Code. The bill conforms to certain bill drafting conventions and makes clarifying changes and technical corrections to the law.

#### ***Continues the Self-Directed Semi-Independent Agency Act.***

C.S.H.B. 1685 continues the Self-directed Semi-independent (SDSI) Agency Act, removing the Act's pilot project status and separate Sunset date, instead providing for future Sunset review during the reviews of the agencies under the Act, and makes conforming and related technical changes. The bill also requires the agencies to pay the costs incurred by the Sunset Advisory Commission in performing a review of the agency under the agency's enabling legislation on receipt of a statement from the Sunset Commission detailing the costs.

#### ***Clarifies that provisions of general law apply to the agencies subject to the Act and lists some applicable laws.***

C.S.H.B. 1685 requires the SDSI agencies to follow general laws, such as prompt payment, travel, and state purchasing requirements, which apply to state agencies unless otherwise provided under the Act.

#### ***Expands the data in the current reports required by agencies subject to the SDSI Act.***

C.S.H.B. 1685 requires the agencies operating under the Act to provide the preceding five years of trend performance data regarding their licensing and enforcement and basic administrative

activities in their annual reports due on or after the effective date of the bill. In addition, bill would require the agencies to report operating plans and projected budget data for two fiscal years.

***Clarifies that agencies subject to the Act must use the Comptroller's Uniform Statewide Accounting System to make all payments.***

C.S.H.B. 1685 would prohibit the SDSI agencies from opening accounts not under the control of the Comptroller's Office and require the agencies to use the Uniform Statewide Accounting System for all future payments, except that direct payments to the Safekeeping Trust Company may be made from each agency's Trust Company account.

***Clarifies that authorized scholarship fees do not have to be remitted to the State.***

The bill also deletes a requirement that scholarship fees provided in an agency's enabling statute be remitted to the State.

***Prohibits the SDSI agencies from keeping administrative penalties collected.***

C.S.H.B. 1685 requires the agencies to remit all administrative penalties to the Comptroller for deposit in the General Revenue fund and deletes existing language allowing the agencies to retain these fines.

C.S.H.B. 1685 repeals Section 1001.507, Occupations Code, which authorizes a part of an administrative penalty representing the cost of enforcement to be appropriated to the Board of Professional Engineers as reimbursement for performing its regulatory functions.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1685 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

SECTION 1. The Self-Directed Semi-Independent Agency Project Act (Article 8930, Revised Statutes) is transferred to Subtitle E, Title 4, Government Code, redesignated as Chapter 472, Government Code, and amended to read as follows:

CHAPTER 472 [~~Art. 8930~~]. **SELF-DIRECTED SEMI-INDEPENDENT AGENCIES.**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 472.001. APPLICABILITY OF CHAPTER.

Sec. 472.002 [3]. DEFINITION.

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. The Self-Directed Semi-Independent Agency Project Act (Article 8930, Revised Statutes) is transferred to Subtitle E, Title 4, Government Code, redesignated as Chapter 472, Government Code, and amended to read as follows:

CHAPTER 472. Same as introduced version.

SUBCHAPTER A. GENERAL PROVISIONS Same as introduced version.

Sec. 472.001. APPLICABILITY OF CHAPTER. Same as introduced version.

Sec. 472.002 [3]. DEFINITION. Same as

SUBCHAPTER B. STATUS OF AGENCIES

Sec. 472.051 [4]. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF AGENCIES [PILOT PROJECT]. (a) Each [Notwithstanding any other provision of law, each project] agency is [shall become] self-directed and semi-independent as specified in this chapter [Act. To allow the pilot project the opportunity to test the effectiveness of operating under the provisions of this Act, any Act of the 78th Legislature that relates to an agency included in Section 2 of this Act and that is inconsistent with being self-directed and semi-independent may be implemented on authorization by the governing board of the agency].

(b) Each [project] agency is [shall continue to be] a state agency, as that term is defined in Section 2001.003(7)[, Government Code].

(b-1) Except as otherwise provided by this chapter, each agency is subject to a provision of law that applies to state agencies, including:

(1) state purchasing requirements under Subtitle D, Title 10;

(2) interagency transfer voucher requirements under Section 2155.327;

(3) travel requirements under Chapters 2171 and 2205, using amounts provided by the General Appropriations Act to guide travel reimbursement rates; and

(4) prompt payment requirements under Chapter 2251.

(c) The Sunset Advisory Commission shall examine each agency's performance as a self-directed and semi-independent agency and the agency's compliance with this chapter as part of the commission's periodic review of the agency under [This Act is subject to] Chapter 325[, Government Code] (Texas Sunset Act)[. Unless continued in existence as provided by that chapter, this Act expires September 1, 2013].

**No equivalent provision.**

introduced version.

SUBCHAPTER B. STATUS OF AGENCIES Same as introduced version.

Sec. 472.051 [4]. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF AGENCIES [PILOT PROJECT]. (a) Each [Notwithstanding any other provision of law, each project] agency is [shall become] self-directed and semi-independent as specified in this chapter [Act. To allow the pilot project the opportunity to test the effectiveness of operating under the provisions of this Act, any Act of the 78th Legislature that relates to an agency included in Section 2 of this Act and that is inconsistent with being self-directed and semi-independent may be implemented on authorization by the governing board of the agency].

(b) Each [project] agency is [shall continue to be] a state agency, as that term is defined in Section 2001.003(7)[, Government Code].

(b-1) Except as otherwise provided by this chapter, each agency is subject to a provision of law that applies to state agencies, including:

(1) state purchasing requirements under Subtitle D, Title 10;

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(c) The Sunset Advisory Commission shall examine each agency's performance as a self-directed and semi-independent agency and the agency's compliance with this chapter as part of the commission's periodic review of the agency under [This Act is subject to] Chapter 325[, Government Code] (Texas Sunset Act)[. Unless continued in existence as provided by that chapter, this Act expires September 1, 2013].

(d) Each agency shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the agency under the agency's enabling legislation. The Sunset Advisory Commission shall determine the

cost, and the agency shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

SUBCHAPTER C. POWERS AND DUTIES OF AGENCIES

Sec. 472.101 [5]. GENERAL DUTIES OF ALL [PROJECT] AGENCIES.

Sec. 472.102 [6]. BUDGET.

Sec. 472.103 [7]. AUDITS.

Sec. 472.104 [8]. REPORTING REQUIREMENTS.

Sec. 472.105 [9]. DISPOSITION OF FEES COLLECTED. If provided in an [a project] agency's enabling legislation, the [project] agency shall collect a professional fee of \$200 from its license holders [licensees] annually, which shall be remitted to the state. If provided in an [a project] agency's enabling legislation, the [project] agency shall collect a scholarship fee of \$10 annually from its license holders [licensees] and shall remit it to the state.

Sec. 472.106 [10]. GENERAL POWERS OF ALL [PROJECT] AGENCIES.

Sec. 472.107 [11]. ABILITY TO CONTRACT.

Sec. 472.108 [12]. PROPERTY.

Sec. 472.109 [13]. SUITS.

Sec. 472.110 [14]. FEES AND DISPOSITION OF FUNDS. (a) Subject to the limitations, if any, in the applicable enabling legislation, each [project] agency may set the amount of fees by statute or rule as necessary for the purpose of carrying out the functions of the [project]

SUBCHAPTER C. POWERS AND DUTIES OF AGENCIES Same as introduced version.

Sec. 472.101 [5]. GENERAL DUTIES OF ALL [PROJECT] AGENCIES. Same as introduced version.

Sec. 472.102 [6]. BUDGET. Same as introduced version.

Sec. 472.103 [7]. AUDITS. Same as introduced version.

Sec. 472.104 [8]. REPORTING REQUIREMENTS. Same as introduced version.

Sec. 472.105 [9]. DISPOSITION OF FEES COLLECTED. If provided in an [a project] agency's enabling legislation, the [project] agency shall collect a professional fee of \$200 from its license holders [licensees] annually, which shall be remitted to the state. If provided in an [a project] agency's enabling legislation, the [project] agency shall collect a scholarship fee of \$10 annually from its license holders [licensees] and shall remit it to the state.

Sec. 472.106 [10]. GENERAL POWERS OF ALL [PROJECT] AGENCIES. Same as introduced version.

Sec. 472.107 [11]. ABILITY TO CONTRACT. Same as introduced version.

Sec. 472.108 [12]. PROPERTY. Same as introduced version.

Sec. 472.109 [13]. SUITS. Same as introduced version.

Sec. 472.110 [14]. FEES AND DISPOSITION OF FUNDS. (a) Subject to the limitations, if any, in the applicable enabling legislation, each [project] agency may set the amount of fees by statute or rule as necessary for the purpose of carrying out the functions of the [project] agency.

agency.

(b) All fees and funds collected by an [a project] agency, [during the pilot project and] any funds appropriated to the [project] agency, and any other funds belonging to or under the control of an agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the [project] agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and its customers. An agency may not hold funds in an account that is not under the control of the comptroller.

(c) An [A-project] agency shall use the comptroller's uniform statewide accounting system under Chapter 2101 to make all payments [may retain each fiscal year an amount of fines and other revenue the project agency receives during the fiscal year as a result of enforcement actions that is equal to 20 percent of the total amount expended by the project agency during the previous fiscal year, not to exceed \$1 million].

(d) An agency shall remit all administrative penalties collected by the agency to the comptroller for deposit in [At the end of each fiscal year 50 percent of the unexpended balance of the amount retained in Subsection (c) of this section shall be deposited to the credit of] the general revenue fund.

Sec. 472.111 [45]. POST-PARTICIPATION LIABILITY.

Sec. 472.112 [46]. OPEN GOVERNMENT.

Sec. 472.113 [47]. MEMBERSHIP IN EMPLOYEES [EMPLOYEE] RETIREMENT SYSTEM.

Sec. 472.114 [48]. GIFTS.

**No equivalent provision.**

(b) All fees and funds collected by an [a project] agency, [during the pilot project and] any funds appropriated to the [project] agency, and any other funds belonging to or under the control of an agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the [project] agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and its customers. An agency may not hold funds in an account that is not under the control of the comptroller.

(c) An [A-project] agency shall use the comptroller's uniform statewide accounting system under Chapter 2101 to make all payments, other than direct payments from an agency's account to the Texas Treasury Safekeeping Trust Company [may retain each fiscal year an amount of fines and other revenue the project agency receives during the fiscal year as a result of enforcement actions that is equal to 20 percent of the total amount expended by the project agency during the previous fiscal year, not to exceed \$1 million].

(d) An agency shall remit all administrative penalties collected by the agency to the comptroller for deposit in [At the end of each fiscal year 50 percent of the unexpended balance of the amount retained in Subsection (c) of this section shall be deposited to the credit of] the general revenue fund.

Sec. 472.111 [45]. POST-PARTICIPATION LIABILITY. Same as introduced version.

Sec. 472.112 [46]. OPEN GOVERNMENT. Same as introduced version.

Sec. 472.113 [47]. MEMBERSHIP IN EMPLOYEES [EMPLOYEE] RETIREMENT SYSTEM. Same as introduced version.

Sec. 472.114 [48]. GIFTS. Same as introduced version.

SECTION 2. Section 901.658, Occupations Code, is amended to read as follows:

Sec. 901.658. FUNDING. The board may:  
(1) use without appropriation, in accordance with [~~Article 8930, Revised Statutes,~~] this subchapter[;] and Section 901.155, any money from the trust fund established under Section 901.155; and  
(2) accept gifts, grants, and donations of real or personal property from any entity, subject to limitations or conditions set by law, for the purposes of this subchapter.

SECTION 2. Section 1001.507, Occupations Code, is repealed.

SECTION 3. Same as introduced version.

SECTION 3. Section 472.104(b), Government Code, as redesignated and amended by this Act, applies only to a report originally due on or after the effective date of this Act. A report originally due before the effective date of this Act is governed by the law in effect on the date the report was originally due, and the former law is continued in effect for that purpose.

SECTION 4. Same as introduced version.

SECTION 4. Not later than October 1, 2013, each agency, as that term is defined by Section 472.002, Government Code, as redesignated and amended by this Act, shall transfer any funds held in an account not under the control of the comptroller of public accounts to an account that is under the control of the comptroller of public accounts, as provided by Section 472.110(b), Government Code, as redesignated and amended by this Act.

SECTION 5. Same as introduced version.

SECTION 5. Sections 472.110(c) and (d), Government Code, as redesignated and amended by this Act, and the repeal by this Act of Section 1001.507, Occupations Code, apply only to an administrative penalty that is collected on or after the effective date of this Act. An administrative penalty that is collected before the effective date of this Act is governed by the law in effect on the date the administrative penalty was collected, and the former law is continued in effect for that purpose.

SECTION 6. Same as introduced version.

SECTION 6. This Act takes effect  
September 1, 2013.

SECTION 7. Same as introduced version.